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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/767,442	01/23/2001	Lester A. LaMotte	960377.CII	2425

23595 7590 05/21/2002

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EXAMINER

WOOD, KIMBERLY T

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 05/21/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/767,442

Applicant(s)

LaMotte

Examiner
Kimberly T. Wood

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 6, 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3, 11, 15, 20-22, and 28-41 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3, 11, 15, 20-22, and 28-41 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 6) ☐ Other:

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This is the second office action for serial number 09/767,442, entitled Collapsible Display System, in response to Amendment A filed on Marcy 6, 2002.

Terminal Disclaimer

The terminal disclaimer does not comply with 37 CFR 1.321(b) and/or (c) because: It does not include a recitation that any patent granted shall be enforceable only for and during such period that said patent is commonly owned with the application(s) or patent(s) which formed the basis for the double patenting rejection. See 37 CFR 1.321(c)(3). The application/patent (Serial No. 09/480,018) being disclaimed has not been identified.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-4, 11, 15, 20-22, 26, and 28-41 provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-24 of

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compending Application No. 09/480,018. Although the conflicting claims are not identical, they are not patentably distinct from each other because the compending application 09/480,018 discloses a pair of adjustable telescoping member or mounting members flexible telescoping brace members, a central member, press fit end hubs, outer hub sections, outer hub sections, slip fitting segments, a resilient cord and the method of fastenting, snapping and mounting the device..

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claims 1-4, 11, 15, 20-22, 26, 28-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim of U.S. Patent No. LaMotte 6,012,688 in view of Allen 4,017,152. LaMotte discloses mounting members flexible brace members, press fit end hubs, outer hub sections, outer hub sections, slip fitting segments, a resilient cord and the method of fastenting, snapping and mounting the device... Lamotte discloses all of the limitations of the claimed invention except for telescoping members. Allen discloses that it is known to have a display unit having mounting members and brace member being telescopic with releasable locking device (Figures 1 and 15).

Claims 1-4, 11, 15, 20-22, 26, and 28-41 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim of U.S. Patent No. LaMotte 5,839,705 in view of Allen 4,017,152. LaMotte discloses mounting members flexible brace members, press fit end hubs, outer hub sections, outer hub sections, slip fitting segments, a resilient cord and the method of fastenting, snapping and mounting the device. Lamotte discloses

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all of the limitations of the claimed invention except for telescoping members. Allen discloses that it is known to have a display unit having mounting members and brace member being telescopic with releasable locking device (Figures 1 and 15).

Response to Arguments

Applicant's arguments filed March 6, 2002 have been fully considered but they are not persuasive since the Terminal Disclaimer does not comply with 37 CFR 1.321(b).

Conclusion


THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kimberly Wood whose telephone number is (703) 308-0539. The examiner can normally be reached on Monday-Thursday from 7:30 AM to 5:00 PM. Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168. The fax number for this Group is (703) 305-3691.

Kimberly T. Wood
May 19, 2002


KIMBERLY T. WOOD
PATENT EXAMINER
primary examiner